

UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF IOWA

IN RE:)
PAUL JOHN KRAMER,) Chapter 7
Debtor.) Bankruptcy No. 04-02900

**ORDER RE: DEBTOR'S PETITION AND/OR MOTION
FOR A HEARING TO SHOW CAUSE
(JONES COUNTY TREASURER)**

This matter came before the undersigned on November 30, 2004 at 10:55 a.m. pursuant to assignment. Debtor Paul Kramer appeared pro se. Jones County Attorney Connie Ricklefs appeared with the Jones County Treasurer, Jan Miller.

STATEMENT OF THE ISSUES

Debtor alleges a Jones County Tax Bill for September, 2004 and March, 2005 he received postpetition, on approximately September 1, 2004, violated the automatic stay. He makes these allegations against Jan M. Miller, Jones County, and Connie Sue Ricklefs. The Jones County Treasurer asserts that mailing the tax bill is excepted from the automatic stay under § 362(b)(9).

CONCLUSIONS OF LAW

Under the Bankruptcy Reform Act of 1994, 11 U.S.C. § 362(b)(9) was amended to lift the automatic stay as it applies to a tax audit, a demand for tax returns, assessment of an uncontested tax liability, or the making of certain assessments of tax and issuance of a notice and demand for payment for such assessment. In re Waugh, 109 F.3d 489, 492 n.7 (8th Cir. 1997). The mailing of notices of tax deficiencies are not subject to the stay. In re LTV Steel Co., 264 B.R. 455, 472 (Bankr. N.D. Ohio 2001). The assessment, determination and collection of property taxes on an ongoing, current basis is excepted from the automatic stay under § 362(b), which sets forth those cases in which the filing of a petition "does not operate as a stay," including in subsection (9)(D) "the making of an assessment for any tax and issuance of a notice and demand for payment of such an

assessment." In re Metromedia Fiber Network, Inc., 299 B.R. 251, 276 -77 (Bankr. S.D.N.Y. 2003).

ANALYSIS

The Court has considered Debtor's arguments and averments. Based on the foregoing, the Court concludes the tax bill sent to Debtor postpetition does not violate the automatic stay. This communication is excepted from the automatic stay pursuant to § 362(b)(9)(D).

WHEREFORE, the Jones County Treasurer did not violate the automatic stay.

FURTHER, Debtor's request for sanctions against Jan M. Miller, Jones County, and Connie Sue Ricklefs is DENIED.

Dated and Entered: December 16, 2004



PAUL J. KILBURG
CHIEF BANKRUPTCY JUDGE